

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI

PHE, INC.	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Case No. 4:13-CV-00480-SNLJ
	)	
DOES 1-27.	)	<b>JURY TRIAL DEMANDED</b>
	)	
<i>Defendants.</i>	)	
_____	)	

**CORRECTED OPPOSITION TO DEFENDANT DOE 21 MOTION TO QUASH  
SUBPOENA DECUS TECUM FOR PRODUCTION OF DOCUMENTS  
SERVED UPON CHARTER COMMUNICATIONS, INC.  
AND TO LITIGATE THE SUBPOENA ANONYMOUSLY**

**I. Introduction**

This opposition responds to a motion to quash subpoena and to litigate the subpoena anonymously filed by Defendant Doe Number 21 ("Doe 21"). This motion should be denied for the reasons set forth herein.

**II. Argument**

**a. Defendant Doe 21 Previously Disclosed his Identifying Information to Plaintiff, thereby Mooting his Motion to Quash.**

First and foremost, Doe 21's motion to quash is moot. Doe 21 previously voluntarily disclosed his identity to Plaintiff's counsel. On April 30, 2013, Doe 21<sup>1</sup> contacted Plaintiff's counsel by telephone and disclosed his identifying information in conjunction with his Internet Protocol address. The information provided by Doe 21 during this phone call is sufficient for

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<sup>1</sup> Plaintiff will refrain from using Doe 21's identifying information in Court filings until the Court rules on Doe 21's co-pending Motion to Litigate the Subpoena Anonymously.

Plaintiff to proceed with naming and serving him. Plaintiff would not be opposed to receiving further identifying information for Doe 21's Internet Service Provider, but such further information is no longer necessary for Plaintiff's case to progress against Doe 21.

**b. Doe 21 Should not be Allowed to Proceed Anonymously or Restrict Disclosure of Identifiable Information to Plaintiff.**

Whether a litigant may proceed anonymously requires balancing the "litigant's substantial right to privacy" with the "constitutionally embedded presumption of openness in judicial proceedings." *Liberty Media Holdings v. Swarm Sharing Hash File AE34, and Does 1 through 38 et al.*, 821 F. Supp. 2d 444, 452 (D. Mass. 2011) (citations omitted).

"The Rules permit the Court to enter a protective order 'for good cause,' in order to 'protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.'" *Raw Films, Ltd. V. Does 1-15*, No. 11-7248, 2012 WL 1019067 at \*6 (E.D. Pa. Mar. 26, 2012) (citation omitted). Doe 21 has failed to meet his burden in showing that such a privacy interest exists which would require the entry of such an order. "A Doe defendant who has allegedly used the internet to unlawfully download and disseminate copyrighted material does not have a significant expectation of privacy." *Id.* at \*8. Here, Doe 21's "interest is substantially outweighed by the need to disclose it so that the plaintiff may proceed with bringing what appear to be non-frivolous claims of copyright infringement that cannot be advanced by other means." *Id.* Similarly, "the potential embarrassment or social stigma that [the Doe Defendants] may face once their identities are released in connection with this lawsuit is not grounds for allowing them to proceed anonymously." *Liberty Media Holdings, LLC v. Swarm Sharing Hash File AE34*, 821 F. Supp. 2d 444, 453 (D. Mass. 2011).

**III. Conclusion**

For the reasons set forth herein, Plaintiff respectfully requests that Defendant Doe 21's Motion to Quash and Motion to Litigate Anonymously be denied.

Dated: June 19, 2013

Respectfully submitted,  
PHE, INC.

By its Attorneys,  
SIMMONS BROWDER GIANARIS  
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**CERTIFICATE OF SERVICE**

I hereby certify that on June 19, 2013 I electronically filed the foregoing document via the Court's ECF, electronic email system, upon all of record as set forth below:

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